**HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE**
**and**
**HON'BLE SHRI JUSTICE G.V.SEETHAPATHY**

**W.A. NO.876 OF 2006**

Between:
Kalluru Audinarayana and another.

**..... Appellants**

AND

J.Munikrishnaiah and 10 others.

**.....Respondents**

**::JUDGMENT::**

**Counsel for the Appellants : Sri P.Gangirami Reddy**

**Counsel for Respondent No.1 : Sri Venkata Ramana Reddy**

**Counsel for Respondent Nos 2&11 : Government Pleader for Revenue**

**Counsel for Respondent Nos 3 to 10 : None**

**Dated 25/8/2006**

**Per Sri G.S.Singhvi, CJ**

This appeal is directed against order dated 13.3.2006 vide which the learned Single Judge dismissed the writ petition filed by respondent No.1 against order dated 7.10.1994 passed by District Judge-cum-Chairman, Estates Abolition Tribunal, Chittoor (for short, 'the Tribunal') in EATAS No.1 of 1990.

Smt. Kalluru Jayamma, wife of K.Venkataiah was granted rough patta in respect of land measuring Ac.2.71 cents comprised in Survey No.4/8 of Kalluru village, Tirupati Rural Mandal, Chittoor District. After some time, Settlement Officer, Tirupati initiated suo motu action under the Andhra Pradesh Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short, 'the Act'), which was numbered as S.R.No.24/15(1)/64. By an order dated 30th May, 1964, the Settlement Officer held that the land-holder was not entitled to ryotwari patta and that she may lodge claim under Section 11(a) of the Act. Thereafter, an application for grant of benefit under Section 11(a) of the Act was filed. During the pendency of that application, Kalluri Jagannadham, father of Kalluri Munirathnam and two others filed a petition under Section 15(1) of the Act for grant of ryotwari patta. The same was contested by Jayamma's husband, Sri K.Venkataiah, who pleaded that the application was not maintainable in view of order dated 30th May, 1964 passed by the Settlement Officer.

The competent authority accepted his plea and dismissed the application filed by Kalluri Jagannadham and two others. The latter challenged the same in E.A.T.A.S.No.16 of 1970. By an order dated 12-9-1974, the Tribunal allowed the appeal and remanded the case to the Settlement Officer for fresh adjudication. Thereafter, by an ex parte order dated 30-12-1980, the Settlement Officer granted patta in favour of Kalluri Jagannadham and two others. Smt. Jayamma applied for recall of that order by asserting that she had not been given opportunity of hearing. The Settlement Officer accepted her application and restored the case. Ultimately, by an order dated 19-6-1990, the Settlement Officer dropped the proceedings by observing that all the entries are bogus and pattas granted in favour of Jayamma and others had become final. The appeal preferred by respondent No.1, which was registered as E.A.T.A.S.No.1 of 1990 was dismissed by the Tribunal vide its order dated 7-10-1994. The Tribunal observed that even though respondent No.1 is said to have purchased the land from Kalluri Jayamma in 1969, he never participated in any earlier proceedings and, therefore, he did not have the locus to challenge order dated 19-6-1990.

Respondent No.1 challenged the order of the Tribunal in Writ Petition No.3689 of 1995. The learned Single Judge referred to the judgment of the Full Bench of this Court in **T.Muniswami Naidu v. R.Venkata Reddy**[1] and dismissed by the writ petition by observing that the petitioner (respondent No.1 herein) can always approach the Settlement Officer by making appropriate application under Section 56(1)(c) of the Act and on making such an application, the Settlement Officer is free to make enquiry and pass appropriate order.

The appellants have questioned the order under challenge primarily on the ground that while declining relief to respondent No.1,

the learned Single Judge could not have ordained disposal of the application which may be filed under Section 56(1)(c) of the Act.

We have heard learned counsel for the appellants and perused the record. In our opinion, the grievance made by the appellants against the observations made by the learned Single Judge in the penultimate paragraph of the order under challenge suggesting that the writ petitioner (respondent No.1 herein) can file an application under Section 56(1)(c) of the Act with a further observation that on making such an application, the Settlement Officer can enquire into the same and pass appropriate order does not in any manner affect any right of the appellants. The observations made by the learned Single Judge, to say the least, are most innocuous and do not in any manner affect the right acquired by the appellants in terms of order dated 7-10-1994 passed by the Tribunal, which was subject matter of challenge in the writ petition.

Undisputedly, the learned Single Judge has not nullified the order passed by the Tribunal. Therefore, as and when respondent No.1 makes an application under Section 56(1)(c) of the Act and the Settlement Officer concerned issues notice of the application to the appellants, they can contest the same on all legally permissible grounds including the one that the application is not maintainable.

With the above observations, the appeal is dismissed.

As a sequel to the dismissal of the appeal, WAMP No.1808 of 2006 filed by the appellants for interim relief is also dismissed.

**G.S.SINGHVI, CJ**

**G.V.SEETHAPATHY,J**

25th August, 2006.

msv/ars

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[1] AIR 1978 AP 200